Backlash over changes in flood insurance

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A complex new federal insurance law is having so many unintended consequences that some of its original sponsors and backers are now trying to delay it.

It's not the Affordable Care Act.

It's the Biggert-Waters Flood Insurance Reform Act of 2012. Its goal was to put the National Flood Insurance Program, which was ravaged by Hurricane Katrina, on a firmer footing. It passed with bipartisan support just months before Superstorm Sandy hit, sinking the program even deeper in debt.

The act reauthorized the flood insurance program - which was continually lapsing and being reinstated for short periods - for five years. It also instructed the Federal Emergency Management Agency to begin phasing out subsidies and discounts, so premiums more accurately reflect a property's risk.

Proponents knew rates would start rising this year, but screams went up when some increases were much bigger than expected and scuttled real estate deals.

Rep. Maxine Waters, D-Los Angeles, who co-authored the bill, is now co-sponsoring a bill - the Homeowner Flood Insurance Affordability Act - that would delay premium increases for up to four years.

"The Biggert-Waters legislation was designed to address a $24 billion deficit and ensure millions of American homeowners could continue to purchase flood insurance. But FEMA's poor implementation, inaccurate mapping and incomplete data has led to unreasonable and unimaginable increases in premiums," Waters said in a speech Nov. 8 in Louisiana.

The National Association of Realtors, which supported Biggert-Waters, is now backing the bill to delay it.

FEMA spokesman Dan Watson says, "We are implementing the law as directed by Congress."

Although Biggert-Waters has gotten the most attention on the East and Gulf coasts, it affects flood-prone regions in every state.

Almost 10 percent of the Bay Area was within a 100-year flood zone as of 2005, although much of this land is open space or industrial property. Only 3.4 percent of land zoned residential was within a 100-year flood zone.

Properties in these zones, also known as special flood hazard areas, must have flood insurance if they have a federally insured mortgage. On FEMA flood maps, they are labeled with codes starting with an A or V.

Property-owners in lower-risk areas can purchase national flood insurance but are not required to. They are not subject to premium changes under Biggert-Waters.

About 51,000 Bay Area properties have national flood insurance.

Anyone who owns a home or is considering buying one in a special flood hazard area should contact an insurance agent who sells flood insurance or their local engineering, public works or building departments. The impending changes are complex and will affect homeowners in different ways depending on their home's age, location, elevation, style of construction and how they use it.

The good news is, most people who live in their homes as a primary residence, keep their flood polices current and have not been subject to repetitive flooding won't see any changes immediately. But if they sell the home, the buyer might have to pay sharply higher premiums.

The act has two major sections, which will affect different groups of homeowners.

Section 205

FEMA has begun implementing Section 205, which affects older properties that are getting a subsidized rate, meaning their premium does not reflect their flood risk. These are older homes built before their community joined the national flood insurance program and got its first Flood Insurance Rate Map. They are labeled pre-FIRM, but not all pre-FIRM homes are subsidized.

FEMA says that only 20 percent of flood policies are affected by Section 205 and most won't see any immediate changes. Within this group, there are three categories.

-- Non-primary residences, such as vacation or rental properties. Starting Jan. 1, 2013, the premium for these properties is going up 25 percent a year until it reaches its full-risk rate.

-- Business properties and primary homes subject to severe repetitive flooding. Starting last month, the same rate increases apply.

-- Other primary residences. As long as the current homeowner uses it as a primary residence, it will keep the subsidized rate. However, if the policy lapses, it will be reinstated at the full-risk rate. If they owner sells, the buyer must pay the full-risk rate.

Caveat: Buyers who purchased a primary home after July 6, 2012, will pay the full-risk rate when their policy renews after Oct. 1, 2013.

To find out the full-risk rate, property owners need an elevation certificate, which shows their structure's height above or below expected flood level. Unless their home already has one, homeowners will need to hire an engineer or surveyor for an elevation certificate. Owners can show this certificate to an insurance agent to get a full-risk quote.

Some homeowners see rate decreases after they get an elevation certificate.

Section 207

Some homes that are not subject to Section 205 could be subject to premium increases under Section 207, which has not taken effect.

This section applies to post-FIRM homes (built after their community entered the flood program) that are grandfathered.

A home is grandfathered when it is built in compliance with the flood map in effect at that time, but a newer flood map placed the home in a higher-risk area. The grandfathered home can keep its previous premium, and pass it along to a new owner.

Under Section 207, FEMA must phase out grandfathered discounts, but it's not clear whether people who already have these discounts keep or lose them. FEMA will not write the rules implementing this section until late 2014 at the earliest. It can't estimate how many people this could impact.

The new bill would halt premium increases under section 205 and 207 until FEMA completes an affordability study mandated under the act and takes other actions that could take up to four years.

The Realtors association supported Biggert-Waters because "our members were tired of all the short-term lapses," which delayed real estate closings, says Jamie Gregory, the association's deputy chief lobbyist.

But some premium increases were much larger than expected. "We had people paying $1,000 a year and it increased to $10,000," he says.

Because the law is so new and complex, many homeowners are getting incorrect quotes from insurance agents. A delay would give them more time to get things straight, Gregory says.

In the meantime, homeowners "need to read their declarations page and if it doesn't sound right, question their agent," says Lisa Jones, a consultant with Carolina Flood Solutions.

Homeowners can also reduce their premiums by elevating structures, installing flood vents and encouraging their communities to take flood mitigation efforts. That is one goal of Biggert-Waters that's hard to argue with.

Flood risk in the Bay Area

County	Percent of urban land in 100-year flood zone (2005)*	Number of national flood insurance policies (as of August)
Alameda	5.4%	3,857
Contra Costa	6.3	5,424
Marin	10.9	8,750
Napa	10.7	2,155
San Francisco	0	54
San Mateo	4.7	6,291
Santa Clara	6.4	17,041
Solano	11.5	3,177
Sonoma	4.8	4,031

*Includes all property types

Sources: Association of Bay Area Governments, Federal Emergency Management Agency

For more information go to: www.fema.gov/bw12

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